

REMARKS

Applicant, by the amendments presented above, has made a concerted effort to present claims which more clearly define over the prior art of record, and thus to place this case in condition for allowance. Claims 1-4, 6-11 and 13-17 are pending. Claims 5, 12 and 18-23 have been canceled without prejudice.

Allowable Subject Matter

Applicant acknowledges with appreciation that claims 6, 14 and 15 would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 U.S.C. §102(b)

Claims 1-5, 7 and 16-18 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by United States Patent No. 5,662,101 to Ogden. Reconsideration and withdrawal of the rejection is requested. Claims 5 and 18 have been canceled without prejudice.

Independent claims 1 and 16 have been amended to specify a flexible sliding strap between the headgear and patient interface. Claims 7 and 17 have been amended to clarify that the strap is restrained such that the movement of the strap is in a longitudinal direction over the patient interface.

Ogden discloses a nasal mask 3 with a rigid plate 9 to which the head gear 13, 15, 17 is attached. The rigid plate is loosely mounted to the mask at three locations and can move to compensate for any unequally applied forces. The rigid plate of Ogden is not flexible and as the plate moves the head gear will move, pulling or releasing tension on the head gear straps

13, 15, 17 such that the angle of the head gear alters and the straps either lift off or press against the patient's head. Furthermore, the rigid plate 9 is not restrained such that it moves only longitudinally over the mask 3.

The sliding strap as specified in the claims is flexible. This is as a result of the strap's shape and the materials it is manufactured from, that is, it is elongate and made from polyacetal. The flexible nature of the strap reduces the pulling away or pressing against of the headgear straps against the patient's head and allows the seal between the mask cushion and the patient's face to be maintained and provides additional comfort for the patient.

Therefore, because Ogden does not disclose a flexible strap as specified in amended independent claims 1 and 16, Applicant submits that claims 1, 7, 16 and 17 are patentable over Ogden. Furthermore, as the remaining claims are dependent on any one of these claims, Applicant submits that these remaining claims are also patentable over Ogden.

Claims 20-23 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by United States Patent No. 3,079,917 to Pate. Claims 20-23 have been canceled without prejudice.

Claim Rejections - 35 U.S.C. §103

Claims 8-13 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Ogden. Claim 12 has been canceled without prejudice. Reconsideration and withdrawal of the rejection of the remaining claims is requested.

Claims 8-11 and 13 are dependent on claim 1, which Applicant submit is allowable. Therefore, Applicant submits that claims 8- 11 and 13 are allowable. Reconsideration and allowance of claims 8-11 and 13 is requested.

Claim 19 was rejected under 35 U.S.C. §103 as allegedly being unpatentable over Ogden in view of United States Patent No. 5,537,997 to Mechlenburg. Claim 19 has been canceled without prejudice.

Priority Claim

Applicant again requests acknowledgment of the completion of the priority claim for this application in the next Office Action.

In view of the above Amendments and Remarks, Applicant respectfully submits that the claims of the application are allowable over the rejections of the Examiner. Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 704-1890.

Respectfully submitted,

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